

**In re Stanley Williams**

**Index to Supplemental Exhibits**

1.	Assembly Bill 1121 (as amended June 20, 2005)	1
2.	Declaration of Steven Derrick	4
3.	Declaration of Stanley Williams	6
4.	Declaration of Verna Wefald	8
5.	Declaration of Walter Gordon III	11
6.	Declaration of Samuel Coleman	13
7.	Declaration of Robert M. Martin	14
8.	"Clemency Bid to Include Claim of Errors in Trial"	15
9.	"Death row case in U.S. Reveals Ottawa link"	18
10.	Petitioner's pro se submission to Ninth Circuit Chief Judge Mary Schroeder	21
11.	Order of the Ninth Circuit calling for response	25
12.	Request by the Federal Public Defender for additional time to make response	26
13.	Response by the Federal Public Defender to order of January 29, 2001	29
14.	Respondent's Response to Appellant's Counsel's February 27, 2001 Filing re Substitution of Counsel	36
15.	Supplemental Response by the Federal Public Defender	44
16.	Order Denying Request for New Counsel	49
17.	Petitioner's letter to counsel	50
18.	Supplemental letter to counsel	54
19.	Appellant's Pro Se Motion for New Counsel	56
20.	Order Denying Substitution or Independent Counsel	102

**Index to Supplemental Exhibits  
(continued)**

21.	Motion by the Federal Public Defender for Substitution of Counsel . . . . .	103
22.	Respondent's Objection to the Federal Public Defender's Motion . . . . .	127
23.	Order Granting the Substitution of Counsel . . . . .	141
24.	Application for Additional Time to Locate New Counsel .	143
25.	Federal Public Defender letter re: new counsel . . . . .	148
26.	Declaration of Gail Weinheimer . . . . .	150
27.	Order re: Oral Argument . . . . .	152
28.	Declaration of Maria Stratton . . . . .	154
29.	Declaration of Andrea Asaro . . . . .	155
30.	Reporter's Transcript: James Garrett . . . . .	156
31.	U.S. District Court docket . . . . .	206
32.	U.S. Court of Appeals docket . . . . .	229
	Certificate of Service	

AMENDED IN ASSEMBLY JUNE 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1121**

**Introduced by Assembly Member ~~Koretz~~ Members *Koretz and Lieber***

*(Principal coauthor: Senator Cedillo)*

*(Coauthors: Assembly Members Dymally and Leno)*

February 22, 2005

---

An act to amend Section ~~1216~~ of 3700 of, and to add Section 3700.1 to, the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1121, as amended, Koretz. Sentencing.

*Existing law establishes the sentence of death as the penalty for certain crimes under particular circumstances, as specified.*

*This bill would place a moratorium on the carrying out of any executions, as specified, until certain criteria are met, or, failing that, until January 1, 2009, as specified. The bill would require make findings and state declarations of the Legislature relative to the California Commission on the Fair Administration of Justice, as specified.*

~~Existing law provides that if judgment is for imprisonment in the state prison, the sheriff of the county shall, among other duties, upon receipt of a certified abstract or minute order thereof, take and deliver the defendant to the warden of the state prison.~~

~~This bill would make a technical, nonsubstantive change to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares the*  
2     *following:*

3     (a) *Pursuant to Senate Resolution 44, on August 27, 2004, the*  
4     *Senate resolved to establish the California Commission on the*  
5     *Fair Administration of Justice.*

6     (b) *The California Commission on the Fair Administration of*  
7     *Justice will study and review the administration of justice in*  
8     *California to determine the extent to which that process has*  
9     *failed in the past, resulting in wrongful executions or the*  
10    *wrongful conviction of innocent persons. The commission will*  
11    *examine ways of providing safeguards and making improvements*  
12    *in the way the criminal justice system functions and make any*  
13    *recommendations and proposals designed to further ensure that*  
14    *the application and administration of criminal justice in*  
15    *California is just, fair, and accurate.*

16    (c) *The commission will be conducting its work and must*  
17    *complete its study and make any recommendations for reform by*  
18    *December 31, 2007.*

19    (d) *There are currently more than 640 inmates on death row*  
20    *in California, more than any other state in the country, and of*  
21    *those 640, more than 20 have appeals pending in the Ninth*  
22    *Circuit Court of Appeals, which is the final procedural step*  
23    *before execution dates are set for those inmates whose*  
24    *convictions and sentences are affirmed.*

25    (e) *Because of the mature state of the appeals and habeas*  
26    *proceedings in so many death penalty appeals, it is highly likely*  
27    *that prior to December 31, 2007, dozens of execution dates will*  
28    *be set, clemency proceedings will occur in those cases, clemency*  
29    *decisions will need to be made, and if clemency is not granted,*  
30    *executions will occur, all without the benefit of the California*  
31    *Commission on the Fair Administration of Justice's findings and*  
32    *recommendations.*

33    (f) *In light of the final and irrevocable nature of the death*  
34    *penalty, and to ensure that no innocent person is ever executed in*  
35    *this state, it is necessary to place a moratorium on executions*  
36    *until the work of the California Commission on the Fair*  
37    *Administration of Justice is completed.*

38    SEC. 2. *Section 3700 of the Penal Code is amended to read:*

1 3700. No judge, court, or officer, other than the Governor,  
2 can suspend the execution of a judgment of death, except the  
3 warden of the State prison to whom he *or she* is delivered for  
4 execution, as provided in ~~the six succeeding sections~~ *this*  
5 *chapter*, unless an appeal is taken.

6 SEC. 3. Section 3700.1 is added to the Penal Code, to read:

7 3700.1. (a) There is hereby imposed a moratorium on the  
8 carrying out of executions in this state. The warden of the state  
9 prison to whom an inmate is delivered for execution shall not  
10 carry out any executions during the moratorium period.

11 (b) The moratorium period shall commence upon the date this  
12 section becomes effective, and shall continue until the  
13 Legislature has fully considered any recommendations of the  
14 California Commission on the Fair Administration of Justice and  
15 has enacted legislation ending the moratorium period, provided  
16 however, that if the Legislature fails to enact legislation ending  
17 or extending the moratorium period, the moratorium shall end on  
18 January 1, 2009.

19 (c) Once the moratorium has ended, any date for an execution  
20 shall be set as provided by Section 1227.

21 SECTION 1. ~~Section 1216 of the Penal Code is amended to~~  
22 ~~read:~~

23 ~~1216. If the judgment is for imprisonment in the state prison,~~  
24 ~~the sheriff of the county shall, upon receipt of a certified abstract~~  
25 ~~or minute order thereof, take and deliver the defendant to the~~  
26 ~~warden of the state prison. The sheriff also shall deliver to the~~  
27 ~~warden the certified abstract of the judgment or minute order, a~~  
28 ~~Criminal Investigation and Identification (CII) number, a~~  
29 ~~Confidential Medical/Mental Health Information Transfer Form~~  
30 ~~indicating that the defendant is medically capable of being~~  
31 ~~transported, and shall take from the warden a receipt for the~~  
32 ~~defendant.~~

## DECLARATION OF STEVEN DERRICK IRVIN

I, Steven Derrick Irvin, hereby declare the following:

1. I am currently an inmate at the Los Angeles County Jail, Booking No. 6409414. My date of birth is October 11, 1957. I recently read in the newspaper that attorney Verna Wefald was representing death row inmate Stanley Williams and that she had filed a discovery motion seeking information about Williams being drugged in the county jail. After reading this article, I contacted her office.

2. In 1979, for a short time I was in the highpower section of the county jail with Stanley Williams. On one occasion I saw Mr. Williams break out of his handcuffs. Deputies then restrained him and a black male nurse named Hodges injected him with some type of drug right in front of me. This injection immediately caused Williams to become sedated.

3. Thereafter, during the time that I was in highpower, I saw deputies often moving Mr. Williams about in a wheelchair because he could not walk. It appeared to me that Williams was unable to walk because he was sedated with powerful tranquilizers. It was common knowledge that the jail authorities used psychotropic drugs to control inmates even when there was no suspicion of mental problems. These drugs were used as a form of management control. It was also common knowledge that nurse Hodges was one of the people who would inject inmates with tranquilizers at the request of sheriff's deputies.

4. I do not recall the first name of Hodges. However, I have been looking for him myself in order to assist me in my own case. I think Mr. Hodges should be today in his 70s. I have asked my own investigator to try to find him. So far we have not located him.

5. I also recall a black male sheriff's deputy who worked in highpower at the same time that Stanley Williams and I were locked up in that module. The deputy's last name was White and the inmates referred to him as "two flashlight White" because he always carried two flashlights. Deputy White should be able to corroborate that Mr. Williams was drugged in order to control him.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6 day of December 2005, at Los Angeles, California.

  
STEVEN DERRICK IRVIN, Declarant

## DECLARATION OF STANLEY WILLIAMS

I, Stanley Williams, hereby declare the following:

1. I am a condemned inmate at San Quentin State Prison in San Quentin, California (Prison Number C-29300). I was convicted and sentenced to death for four murders that I did not commit. I was not present when any of these individuals was killed and I do not know who killed them. I have protested my innocence since the day I was arrested.

2. While I was a pretrial detainee at the Los Angeles County Jail from 1979 to 1981, I was forcibly drugged with some kind of powerful psychotropic medication. I was also drugged during my trial. I wrote about this involuntary drugging in my autobiography, "Blue Rage, Black Redemption." My account of being drugged is a true account of my experience. The effects of these drugs took years to wear off.

3. I did not write about my trial in my autobiography because I do not remember the trial. I do not remember the witnesses testifying against me. It was only years later while reading my trial transcripts and the briefs filed by my appellate lawyers that I learned about the evidence against me. All of the prosecution witnesses who testified, Alfred Coward, James Garrett, Ester Garrett, Samuel Coleman, and George Ogelsby lied.

3. I do remember being arrested with Samuel Coleman. I also remember Coleman being beaten in the jail. I do not remember him testifying against me. If I had been aware of what was going on in my trial, I would have informed my trial attorney Joe Ingber,

that Coleman had been severely beaten by the police before he testified against me. I would have asked Mr. Ingber to cross-examine Coleman about the beating.

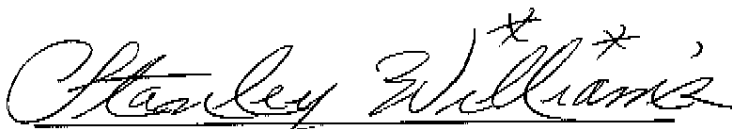
4. I do remember Joe Ingber but I have only a vague recollection of conferring with him prior to my trial. I do remember telling him that I was innocent.

5. While my case was on appeal, I saw notes that jailhouse informant George Ogelsby gave to law enforcement authorities. Although these notes appear to be in my handwriting, I do not remember writing any of them. I do not remember speaking with George Ogelsby while I was incarcerated at the Los Angeles County Jail. I do not even remember what he looked like.

6. Throughout the years that my case was on appeal in both the state and federal courts, I told all my attorneys repeatedly that I was innocent. I also told them repeatedly that I had been drugged during my trial.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1<sup>st</sup> day of December 2005, at San Quentin, California.

  
STANLEY WILLIAMS, Declarant

## DECLARATION OF VERNA WEFALD

I, Verna Wefald, hereby declare the following:

1. I am an attorney licensed to practice law in the State of California and was appointed to represent Stanley Williams in clemency and post conviction proceedings on October 21, 2005. I was not prior counsel. Sometime at the end of December 2004, Barbara Becnel, who co-authored children's book with Mr. Williams, teaching them not to join gangs, asked if I could look into whether there was any investigation to be done and/or issues that could still be raised on his behalf. At the time, Andrea Asaro was counsel for Mr. Williams in the Ninth Circuit.

2. As a sole practitioner, with other cases and extremely limited resources, I looked at some 18 boxes of files in Ms. Asaro's office. In February 2005, I also took custody of some sixty plus boxes of files in the possession of the Federal Public Defender's Office. That office was counsel prior to Ms. Asaro.

3. In the course of reviewing these voluminous files, reviewing the prior state and federal opinions, and conducting independent investigation, I spoke to Mr. Williams' trial lawyer, Joe Ingber; his prior state appellate and habeas counsel, Bert Deixler and Howard Price, and his prior federal counsel, Renee Manes. Ms. Manes told me that her office had all the extant files from

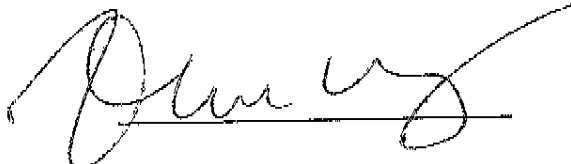
prior counsel including Mr. Ingber. Mr. Ingber also told me that he no longer had any of his trial files in this case. Based on my conversations with all prior counsel and my review of their files, I determined that the items requested in the discovery motion were never disclosed by the prosecution to any of Mr. Williams' prior counsel. Nor was any firearms testing done by prior counsel.

4. A licensed private investigator, Gale Kissin (PI #59019) spoke to Walter Gordon III. His declaration is attached as Exhibit 93. Ms. Kissin was unable to speak with his father Walter Gordon because his hearing is not very good. Walter Gordon III informed Ms. Kissin that his father, though in his 90s, has an excellent memory and is of sound mind. Yesterday, I faxed him copies of Samuel Coleman's testimony at the preliminary hearing, discussions about immunity for Coleman at the trial, and Samuel Coleman's 1994 declaration. Ms. Kissin called me late yesterday afternoon and said that Walter Gordon III had gone over these documents with his father. His father knew who Mr. Williams was, given the recent publicity of his case, but had no recollection of ever having had anything to do with this case. Moreover, his father did not remember Samuel Coleman at all.

5. Other facts stated in the discovery motion and this reply which are not otherwise based on the files and records of the case or the attached exhibits, are true of my own personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23<sup>rd</sup> day of November 2005, at Pasadena,  
California.



VERNA WEFALD

## DECLARATION OF WALTER GORDON III

I, Walter Gordon III, hereby declare the following:

1. I am an attorney licensed to practice in the State of California (State Bar No. 59019). <sup>VOL 65 17/2/85</sup> ~~On or about 1978~~, I represented Ester Garrett, wife of James Garrett. I am informed that both Garretts testified against Stanley Tookie Williams at his trial for capital murder. I do recall being in the courtroom during Mr. Williams' preliminary hearing on one occasion, but I do not remember why I was there.

2. My father Walter Gordon Jr. (State Bar No. 15769) and I shared office space, probably from 1974 to 1979. Sometime in 1979, I moved to my own office. Given the passage of time, I do not recall what role my father may have played in Mr. Williams' case. Nor do I remember what the trial prosecutor in the Williams' case, Deputy District Attorney Robert Martin, looks like. In addition, I am still bound by the attorney client privilege as to Ester Garrett.

3. I will state that my practice as an attorney was to recommend against cooperation with the police or the prosecution for any client. If the client was insistent on cooperating my customary practice would have been to negotiate a quid pro quo directly with

the prosecutor who wanted to use my client as a witness. If I knew that a client was cooperating, I would not have allowed the client to do so without securing a good deal for the client.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22<sup>nd</sup> day of November 2005, at Los Angeles, California.

  
WALTER GORDON III, Declarant

# Declaration of Samuel Coleman

I, Samuel Coleman, hereby declare the following:

I do not remember hiring an attorney to represent me as a witness in Stanley Williams' trial.

I do not remember any attorney representing me at Mr. Williams' trial.

I declare under penalty of perjury that the foregoing is true & correct.

Executed this 29<sup>th</sup> day of November 2005, at Los Angeles, California.



Petitioner's Supplemental Exhibits, Page 13  
SAMUEL COLEMAN

## DECLARATION OF ROBERT M. MARTIN

I, ROBERT M. MARTIN, hereby declare as follows:

1. I was the Deputy District Attorney for the County of Los Angeles assigned to prosecute Stanley Williams, Superior Court Case No. A-194636.

2. In exchange for Alfred Coward's testimony at the preliminary hearing and trial, he was offered full immunity from prosecution for his involvement in the crimes in this case.

3. I have no recollection of ever discussing Mr. Coward's citizenship with him, nor do I recall that he was not a United States citizen.

4. Deportation did not play any role in the decision to grant Mr. Coward immunity, and there was never any deal made with Mr. Coward to ensure he was not deported.

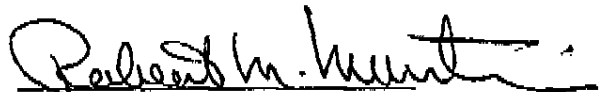
5. I played no role in retaining Samuel Coleman representation.

6. Mr. Coleman's attorney, Walter Gordon, approached me with a request for immunity on behalf of Mr. Coleman. Although I had no intention of charging Mr. Coleman with any crime in this case, I granted Mr. Coleman's request for immunity in order to secure his testimony at the preliminary hearing and at trial.

7. I have no recollection of ever speaking with Esther Garrett's attorney. At the time of Mr. Williams' trial, I did not know the identity of Mrs. Garrett's attorney.

I declare under penalty of perjury and the laws of the State of California and United States of America that the foregoing is true and correct.

Executed this 17th day of November 2005, at Tubac, Arizona.



Robert M. Martin

## CONTRA COSTA TIMES

---

Posted on Sun, Dec. 04, 2005

### Clemency bid to include claims of errors in trial

By John Simerman  
CONTRA COSTA TIMES

What the jury saw was a musclebound hulk in a 4X jacket. What they heard about was barbaric: two cold-blooded robbery murders within 12 days, four dead and a suspect who was said to laugh hysterically as he mimicked the gurgling last breaths of one victim.

Who they heard it from: an alleged accomplice granted immunity, a jailhouse informant, an acquaintance with a checkered criminal past, a friend who later claimed police beat him into testifying.

A police expert tied a shell casing from one crime scene to a slide-action 12-gauge shotgun owned by Stanley "Tookie" Williams, but there were no fingerprints, no pictures, no bystanders to finger him. And no DNA that could bolster or silence his claim of innocence.

A quarter-century later, the trial that landed the Crips gang co-founder on death row draws renewed focus as his Dec. 13 execution date nears. While his backers highlight his tale of atonement and anti-gang outreach from prison, debate over his 1981 prosecution is bound to play out in the Capitol on Thursday as Gov. Arnold Schwarzenegger entertains his case for clemency.

The state's lawyers will underscore the savagery of the crimes, his refusal to admit to them and the repeated rejections of his state and federal appeals. In response, lawyers for Williams likely will argue that the kind of "snitch" testimony relied upon in his trial has led to numerous exonerations, that the evidence was weak and appeals courts never really considered his innocence claim.

"What the federal courts have done is looked at a host of legal questions, such as whether Stanley Williams had inadequate representation, and questions about the jury," said Jonathan Harris, one of the lawyers who will speak for Williams.

"The question of Stanley Williams' guilt or innocence is not properly before them."

The state Supreme Court last week rejected Williams' bid for new ballistics tests and police records that they hoped would reignite his legal case.

The decision, on a 4-2 vote, leaves Williams hanging his hopes on clemency, which would commute his sentence to life without parole.

Unlike the clamor of celebrity and media attention over his plea for life, there was scant public interest in Williams' criminal trial, which started Jan. 21, 1981, and ended in a death sentence two months later.

At the time, a different Los Angeles capital case dominated the news: the trial of Lawrence Bittaker, a machinist who would join Williams on death row for kidnapping and slaying five teenage girls.

The Crips had yet to stamp their violent imprint on the national consciousness. If jurors knew about the street gang, they were never told Williams stood among its leaders. Nor did they hear from Williams, who remained silent during the trial, occasionally jotting on a yellow notepad.

The state's case went like this:

On Feb. 27, 1979, Williams smoked a cigarette laced with PCP and set out with three others, in two cars, to rob. After failed attempts on a restaurant and a liquor store, they drove to a Whittier 7-Eleven store, where Army veteran Albert Owens, 26, was sweeping the parking lot about 4 a.m.

An alleged accomplice, Alfred Coward, testified that Williams ordered Owens to walk to the back of the store, then lie

Petitioner's Supplemental Exhibits, Page 15

down. He told the jury that Williams shot out the store's security monitor, then killed Owens with his shotgun, sawed off at the handle. The four men divided \$120 among them.

The jury also heard testimony that Williams bragged of the March 11 early morning murders of three family members at the motel they ran on South Vermont Avenue in Los Angeles. The state said Williams broke the locks and smashed the molding on the door of the Brookhaven Motel, then shot Yen-I Yang, 76, his wife, Tsai-Shai Yang, 63, and their daughter, Ye-Chen Lin, 43.

There were no witnesses to the motel murders. A fourth family member, Robert Yang, awoke to gunshots but did not see Williams.

Coward was the state's lone eyewitness, testifying under Immunity in the 7-Eleven murder. Another alleged accomplice, Tony Sims, never testified at Williams' trial. He received a life prison term for his role in the robbery-murder, in a separate trial during which he named Williams as the shooter. The third alleged accomplice, known only as "Darryl," also did not testify.

Robert Martin, the prosecutor, said he granted immunity to Coward because he was the least culpable and unarmed -- a claim scoffed at by Williams' lawyers, who cite a host of gun crimes on Coward's criminal record.

The jury knew of the immunity deal, but only portions of Coward's rap sheet, which included armed robbery and carrying a loaded firearm.

Williams' lawyers argue that prosecutors also failed to reveal that Coward was a Canadian citizen who may have given false testimony to avoid deportation. Coward is now serving time in a Canadian prison for robbery and manslaughter.

Police recovered Williams' shotgun two days after the motel murders. They said James Garrett, a con man, pulled it from under his bed. Williams often stayed at Garrett's house, and Garrett named Williams for the murders while police questioned Garrett about the killing of a crime partner.

Garrett testified that Williams bragged about the motel murders and also admitted to the 7-Eleven murder. Garrett's wife, Ester, also testified that she heard Williams confess to the murders.

The jury knew some of Garrett's questionable past, but were not told of any deals with him for leniency. Garrett, a career criminal credited with masterminding several armed robberies, would later receive probation for a variety of crimes, including extortion, over recommendations of jail time by his probation officer. He is now dead.

Robert Martin, the deputy district attorney who prosecuted Williams, insists he never struck a deal with Garrett.

"The only thing I told Garrett's attorney -- this is quite usual -- is that if his judge called me and asked if he gave honest, truthful testimony, I'd say yes," said Martin, now retired. "If ... the judge learns that he testified truthfully in a murder case, he's probably going to get some consideration."

Prosecutors are required to tell the defense about deals with witnesses. This one was unspoken, said Williams' attorney, Verna Wefald.

"It's important to understand how this winking and nodding goes on with informants and prosecutors," she said. "Nobody does this for nothing, and everybody knows how the game is played except the jury."

Wefald said police never investigated Garrett for the murders, despite his possession of the shotgun and his knowledge of what happened.

Samuel Coleman, a friend of Williams who was arrested with him, also testified under immunity that Williams admitted the crimes to him. Later, in 1994, Coleman signed a sworn affidavit saying police beat and intimidated him into his testimony. His current whereabouts are unclear.

George Oglesby, a jailhouse informant with a grimy, violent criminal record, told the jury that Williams bragged about the killings and plotted an escape, planning to explode a jail bus with Coward aboard.

Jurors saw notes and a sketch that Williams purportedly wrote in jail, plotting the escape. A handwriting expert testified that the writing matched Williams' penmanship.

A police firearms expert also testified that he positively matched a shell from the motel crime scene to Williams' shotgun -- testing that his attorneys call flimsy. Two shells recovered from the 7-Eleven were "consistent" with the shotgun, the expert said, but he could not make a positive match.

The defense attorney never had the weapon tested.

"It's all informants, and that shotgun," said Wefald. "The shotgun clearly looks like it was planted under Garrett's bed."

The 9th Circuit Court of Appeals rejected all of Williams' arguments about the witnesses who testified.

It found that Williams' trial attorney "effectively called into question the truthfulness of Oglesby's testimony through cross-examination." The panel found that Williams could not prove that Garrett secured anything more than a hope of leniency when he testified. And it held that, even if Coleman was beaten and coerced, the time between the beating in 1979 and the trial two years later was enough to make his testimony "sufficiently voluntary."

After his conviction, Williams' attorney chose not to present mitigating evidence, or any mental state defense, to avoid a death sentence. His appeals lawyers claimed Williams received unconstitutionally weak defense. The defense lawyer, Joe Ingber, says he made a calculated call.

"I had a dilemma. The prosecution chose not to include ... anything to do with gangs," said Ingber. Any mitigating evidence "might open the door to a lot of gang activity that hadn't been brought up in the guilt trial."

Asked what most swayed the jury, Ingber pointed to the figure he had fitted in a 4X jacket to keep his muscles from stretching the seams.

"His physical presence would have been ominous enough for me. You're sitting there, listening to four murders, a shotgun used to kill three people in a family, and you're looking at a person who looks very ominous. It's hard to be a little compassionate, except to the family."

Martin, the prosecutor, said the best evidence in the case "really came from Tookie himself. The fact he told Sam Coleman, the fact he told the Garretts and also his documents of the escape attempt."

The appeals court rejected Williams' claim that he was incompetent to stand trial. Recently, he said he was involuntarily drugged in jail while awaiting trial -- a claim that the state Supreme Court declined to entertain.

The trial record shows that Williams was barely responsive to questions from the judge.

In his memoir, "Blue Rage, Black Redemption," Williams devotes only a few sentences to his trial, writing that he "sleepwalked numbly through the majority of the ordeal." He describes that period as "an amnesiac episode that flew by with the speed of light."

Now, 24 years later, Williams can only hope that Schwarzenegger rewrites the ending.

*Reach Times staff writer John Simerman at 925-943-8072 or at [jsimerman@cctimes.com](mailto:jsimerman@cctimes.com).*

Thursday » December  
8 » 2005

## Death row case in U.S. reveals Ottawa link 'Redemption' inmate subject of 11th-hour plea

**Randy Boswell**  
The Ottawa Citizen

*Thursday, December 08, 2005*

A last-ditch legal battle to convince California Gov. Arnold Schwarzenegger to stop Tuesday's scheduled execution of celebrity death-row inmate Stanley "Tookie" Williams -- a reformed gang leader depicted in the movie *Redemption* -- has revealed a startling Canadian connection and an alternate theory of the crimes that landed him in prison 26 years ago.

Lawyers for Mr. Williams claim that Alfred Coward -- the Canadian-born witness whose testimony was key to convicting their client of a 1979 killing in Los Angeles -- was first granted immunity by prosecutors, despite his involvement in the same killing, and then treated lightly and repeatedly freed from prison in the U.S. This, despite a string of criminal acts in the 1980s and '90s that ended with him returning to Canada and killing an elderly Ottawa man in 1999.

Mr. Williams, whose jailhouse books and education campaigns to end gang violence have prompted praise and four Nobel Peace Prize nominations, faces death by lethal injection in a case that has gripped the U.S. and sparked a national debate over capital punishment.

Mr. Williams, 51, has steadfastly claimed his innocence, despite being found guilty of four robbery-related murders in 1979.

Earlier this year, judges who dissented from a California appeal court ruling that upheld the verdicts argued the convictions were obtained with only "circumstantial evidence and the testimony of witnesses with less-than-clean backgrounds and incentives to lie, in order to obtain leniency from the state in either charging or sentencing."

Mr. Schwarzenegger is to meet today with Mr. Williams' lawyers to hear their final arguments on why the execution should be stopped. State officials will make their case that Mr. Williams' alleged redemption can't erase the horrors he perpetrated in the 1979 killings and as a co-founder of the Crips street gang in the early 1970s.

Mr. Schwarzenegger has been deluged with pleas for clemency from Hollywood heavyweights such as Russell Crowe, Susan Sarandon and Jamie Foxx -- who portrayed Mr. Williams in the 2004 film about his life -- as well as Rev. Jesse Jackson and Archbishop Desmond Tutu.

One of Mr. Williams' lawyers, Verna Wefald, believes her client was falsely accused by Mr. Coward of committing the first of the 1979 murders.

"The only evidence against Williams is Alfred Coward's immunized testimony," she said, adding Mr. Coward was "motivated to testify falsely" because of his involvement in the crime.

Ms. Wefald claims the prosecutor in the 1979 case withheld damning information

Petitioner's Supplemental Exhibits, Page 18

about Mr. Coward's violent criminal history, then cut a deal with him.

The defence team's petition for clemency highlights Mr. Williams' prison rehabilitation and his achievements as a champion of non-violence. It also casts doubt on Mr. Williams' guilt in the 1979 killings.

The lawyers point out that Mr. Coward "received complete immunity for his claimed role in capital murder" in exchange for testifying it was Mr. Williams -- rather than Mr. Coward or two other accomplices -- who shot a 7-Eleven employee in the bungled February 1979 robbery of a Los Angeles convenience store.

"Coward had a lengthy criminal history for armed robbery," the petition states, "including a robbery right in front of the Brookhaven Motel" -- the scene of the three shooting deaths in March 1979 for which Mr. Williams was convicted on testimony from other suspects and a jailhouse informant.

"Subsequent to Stanley Williams' trial, Coward was convicted of federal conspiracy and given only probation," the petition continues. "He was thereafter arrested for drug dealing, burglary and receiving stolen property, yet each time the district attorney declined to file charges. In 1990, he pled guilty to burglary and, despite the probation officer's pleas that he be sent to prison, the district attorney agreed to probation.

Mr. Coward is now in Joyceville Institution near Kingston on a conviction for killing Alfred Racicot, an 80-year-old retired Ottawa public servant. Mr. Racicot had been volunteering at a seniors' Christmas party before he was attacked at the entrance to his apartment on Dec. 12, 1999.

Mr. Coward had moved back to Canada and was making a meagre living moving furniture and taking meals at a men's shelter. A surveillance camera at Mr. Racicot's apartment captured Mr. Racicot passing through the first set of doors and then fumbling with his keys at the locked security entrance. Then, a burly black assailant burst into the building and smashed Mr. Racicot on the side of the head with a closed-fist, roundhouse blow.

Mr. Racicot crumpled to the floor, cracking his skull. He died two days later without regaining consciousness.

The attacker rifled through his victim's pockets before running back through the doors and out of the camera's view.

Initially charged with murder, but later with manslaughter, Mr. Coward claimed he was in bed with the flu on the night of the killing, that he had never seen Mr. Racicot, and that he was an innocent victim of mistaken identity and blurred images from a faulty camera.

But after he was found guilty and faced sentencing, Mr. Coward admitted he beat and robbed Mr. Racicot, leaving him to die.

"To the court, his family, and his friends, I take full responsibility in my actions," Mr. Coward said at his sentencing. "But it was not my intention for him to die. It was an accidental action."

In imposing a 12-year sentence, Justice Roydon Kealey rejected Mr. Coward's incomplete confession. "It is glaringly obvious to me from the videotape that you intended to cause severe physical harm," he said.

"You stalked (Mr. Racicot) the way a neanderthal would stalk their prey."

Ms. Wefald said that if California authorities had not given Mr. Coward "extraordinarily lenient treatment," he would never have been free to attack Mr. Racicot.

"They just kept dropping charges against him. He never really spent much time in prison before he killed this old man," she said. "And he's going to be out on the streets again very soon."

Tom Hayden, the retired California senator and famed protest leader in the Vietnam era, has written to Mr. Schwarzenegger, slamming state officials.

"The Coward character in this story led a charmed life of crime in the years after his testimony against Tookie Williams," Mr. Hayden argued. "His luck ran out in 1999, when he robbed and killed someone in Canada."

© The Ottawa Citizen 2005



Copyright © 2005 CanWest Interactive, a division of CanWest MediaWorks Publications, Inc. All rights reserved.

The Chief Justice of the Ninth circuit  
Court of Appeals  
Chief Justice Mary Schroder  
PO.Box 193939  
San Francisco, Ca, 94119-3939

12/27/00 *EW*

Dear Chief Justice Mary Schroder,

11/12/00-Sunday

Enclosed is a facsimile of a "legal letter" forwarded to Ms. Maria E. Stratton of the "Federal Public Defender" Office.

I am extending this cover missive to you, Ms. Schroder, to impart my diligent pursuit of a "legal team," to represent me on the federal level. I felt it necessary to apprise a higher level of authority in the federal appeal process.

Notably, I've had a total of "5" federal appeal attorneys from the "Federal Public Defender Office...they all quit for one reason or another! Therefore, I'm obligated to pursue new death penalty appeal representation elsewhere. Moreover, this is not a feeble attempt to tarry the appeal, but rather, to assure myself of the best representation I'm able to obtain.

Indeed, I thank you, Madam Mary Schroder, in advance for your consideration of these matters.

"Sincerely Yours"

*Stanley Williams* \* \*

Stanley Williams

Stanley Williams

No. 99-99018

D.C No. CV 89-0327 SVW

4 pgs

Stanley Williams C#29300  
San Quentin State Prison 4-ER-70  
San Quentin, California, 94974

Dear Ms. Maria Stratton,

11/6/00-Monday

In essence, this missive is to memorialize the event having taken place during a recent legal visit. Needless to say, from the incipency, Ms. C. Renée Manes and I were at odds. Obviously, the conflict of interest is ongoing, and seeing eye-to-eye was never possible!

1) On November 11, 2000-Monday, Ms. Manes and I strongly disagreed about the existence of typos being in the recent brief(Reply Brief For Appellant). I asked Ms. Manes whether or not she noticed any typos in the legal brief, which she responded "no." I questioned how possibly could she miss [125] typos, then I proceeded to show her page by page the very visible typos. Shrugging it off, Ms. Manes stated that "those were not typos," but rather, a glitch in her machine. I apprised Ms. Manes that despite the word play with semantics, the [125] errors are typos.

2) Notably, the "Webster's 3rd Edition Dictionary" defined verbatim, a typo as being: "an error printed or typewritten matter resulting from a mistake in typing or from mechanical failure." End of quote! Moreover, I mentioned that the 9th circuit court judges, will use the [125] typos against me. Ms. Manes disagreed and stated that court judges do not use typos against the appellants.

3) In a further discussion anent the typos, I segued into an article in the San Francisco Chronicle(11/3/00-Friday) entitled; "Lawyer Admits Sabotaging Appeal of Death-Row Inmate He didn't Like." Ms. Manes asked was that the way I felt? My response was yes, it sure looks like that! Ms. Manes asked why don't I get myself another attorney? That's when I stated "as soon as I can find another attorney, I will." Ms. Manes stated "you don't have to wait, I can resign now! Ergo, I accepted her resignation on the spot, then called an officer to terminate the visit. This missive is to express my side of the event, to hopefully preclude a unilateral version!

4) Moreover, in the "Opening Brief For Appellant(dated: 3/21/90) filed by attorney Renée Manes, she [overlooked] types where parts of a paragraph/bottom foot note of page (25) are on page (28). Also, the paragraph/single obscure line of page (27) are on page (28). The bottom line of page (28) & the upper page of (29) are two incomplete sentences that segued solecistically into one another.

5) In retrospect, there were other unprofessional attorneys from your office, assigned to my case. Each attorney averred he/she, were committed to representing me, to quote, unquote, "win your case." But they all resigned! A) Attorney Kate Rubin resigned after less than a year, without ever notifying me, her client, or my family. In fact, I found out second hand [months] later that Ms. Rubin had resigned. Albeit I wrote her a missive, she never responded. B) Attorney Julie Trachetti resigned less than "six months." However, during the final legal visit she did mention resigning, because she could not handle the case, it was too much. Moreover, Ms. Trachetti acknowledged that I was correct about her not being experienced enough for my case. C) Attorney Janice Bergman(the most mysterious attorney), was supposedly assigned to my case. Nevertheless, she moved to another state where I was told she would still be working on my case. Unfortunately, Ms. Bergman has never contacted me, nor was I ever provided with information to contact her, in this state, or any other state. D) Attorney Michael O'Connor resigned after less than a year, to pursue a "9 month" program in Ireland. Prior to representing me, Mr. O'Connor knew his departure was imminent, yet, chose to withhold pertinent information from me, and my family. Had I known beforehand about Mr. O'Connor's planned exodus, I would not have expected long term participation on his part. I was duped!

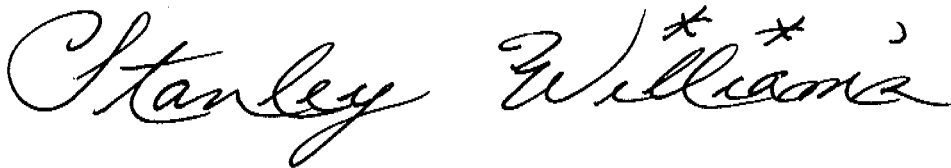
6) Consequently, I was apprised that the Federal Public Defender's Office would be searching for another attorney to represent me along with Attorney Renée Manes. After "9 months" had passed, Ms. Manes imparted to me that due to the Federal Public Defender Office's "lack of funds," there would be fewer legal visits, and no more attorneys assigned to my case. As it turned out, the second seed attorney(Ms.

Page-III

Manes) would not only be the [lead] attorney, but the sole attorney working on my case. Ms. Manes proved my fears with the ultimate example of her inexperience, in filing a legal brief with [125] typos, and a prior legal brief with typos. In fact her lack of professionalism demonstrates more than a disdain for me, but also, a disdain for the 9th Circuit court.

7) Hence forth, I shall seek representation as per the suggestion of Ms. Manes. The gross demonstrations of negligence is so axiomatic, I'm prone to believe it was sabotage! In all honesty Ms. Stratton, how can I possibly have faith/trust in such aforementioned attorneys. Therefore, I entreat of you Ms. Stratton [not] to assign another attorney to this case from your office...I will not acknowledge him/her. My decision is not open to discussion. I'm confident that I will locate an attorney(s), who is willing to fight for my life/innocence...and not jeopardize or end my life!!!! Thank you!

"Sincerely"

A handwritten signature in cursive script that reads "Stanley Williams". There are two small asterisks above the "i" in "Williams" and a small comma at the end of the signature.

Stanley Williams

CC: Mary Schroder, Chief Judge Of The U.S Court Of Appeals For The 9th Circuit.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

JAN 29 2001

GATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

STANLEY WILLIAMS,

Petitioner - Appellant,

v.

JEANNE WOODFORD, Warden,

Respondent - Appellee,

No. 99-99018

D.C. No. CV-89-00327-SVW

C. D. Cal.

ORDER

Before: Peter L. Shaw, Appellate Commissioner

The Court has received Appellant's pro se letter of November 12, 2000, which appears to request the appointment of new counsel. Appellant's current counsel shall file in this court a response to that letter by February 13, 2001.

*Peter L. Shaw*

General Orders 6.3(e)

O:\AppComm\Orders\ep1er\99-99018

**FEDERAL PUBLIC DEFENDER**  
CENTRAL DISTRICT OF CALIFORNIA  
321 EAST 2nd STREET  
LOS ANGELES, CALIFORNIA 90012-4206  
213-894-2854  
213-894-0081 FAX

MARIA E. STRATTON  
*Federal Public Defender*  
DENNIS J. LANDIN  
*Chief Deputy*

CRAIG WILKE  
*Directing Attorney*  
*Santa Ana Office*  
OSWALD PARADA  
*Directing Attorney*  
*Riverside Office*

Direct Dial: (213) 894-7526

February 7, 2001

RECEIVED  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FEB - / 2001

Peter L. Shaw, Appellate Commissioner  
United States Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, California 94103-1526

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE 2/16/01 INITIAL ew

**Re: Stanley Williams, Jr. v. Jeanne Woodford [formerly Arthur Calderon]**  
Case No. 99-99018  
Related Case No. 00-99001

**Subject: Request for Extension of Time to Respond to the Order of  
January 29, 2001**

Prior due date for response: February 13, 2001  
Requested due date for response: February 27, 2001

Dear Appellate Commissioner Shaw:

I received your Order of January 29, 2001, on Monday, February 6, 2001. Our office is aware of the situation with Mr. Williams, and we have been in contact with him regarding these issues. I am writing to request a two week extension of the due date for our response to your Order, which would place the response due on or before February 27, 2001.

I have been attempting to make an appointment to see Mr. Williams. Unfortunately, San Quentin only allows legal visits on Monday, Tuesday and Wednesday, and also has limited space for such legal visits. San Quentin was unable to accommodate a visit on Tuesday or Wednesday of this week. I do have an appointment for next Monday, February 12, 2001, and I hope to see Mr. Williams at that time. It is possible that Mr. Williams will prefer to see the Federal Public Defender herself, Ms. Maria Stratton, which would take a few more days.

Peter L. Shaw, Appellate Commissioner

February 7, 2001

*Williams v. Woodford,*

Page 2

Case No. 99-99018, Related Case No. 00-99001

---

I believe that either myself or Ms. Stratton will be able to visit with Mr. Williams within the next two weeks, and provide a response to your Order by February 27, 2001. Therefore, I request an extension to respond until that date.

Thank you very much for your assistance in this matter. If you have any questions, please contact me.

Sincerely,



C. Renée Manes

Deputy Federal Public Defender

ORIGINAL

DECLARATION OF SERVICE

RECEIVED  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

MAR - 6 2001

Case Name: Williams v. Calderon

Case No. 99-99018 3/6/01 EW

Related Case No. 99-99001 EW

D.C. No. CV 89-0327 SVW

I, **C. Kevin Reddick** declare that I am a resident or employed in Los Angeles County, California; my business address is the Office of the Federal Public Defender, 321 East Second Street, Los Angeles, California 90012; I am over the age of eighteen years; I am not a party to the action entitled below; I am employed by the Federal Public Defender for the Central District of California, and a member of the Bar of the United States District Court for the Central District of California, and I served a copy of the attached **RESPONSE TO APPELLATE COMMISSIONER SHAW'S ORDER OF JANUARY 29, 2001** on the following individual(s) by:

☐ Placing same in a sealed envelope for collection and interoffice delivery addressed as follows:

☐ Placing same in an envelope for hand-delivery addressed as follows:

☒ Placing same in a sealed envelope for collection and mailing via the United States Post Office, addressed as follows:

☐ Faxing same via facsimile machine addressed as follows:

**LISA BRAULT**

Deputy Attorney General  
State of California, Department of Justice  
300 South Spring Street, Suite 500  
Los Angeles, California 90013

This proof of service is executed at Los Angeles, California, on **March 2, 2001**.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



**C. KEVIN REDDICK**

No. 99-99018  
Related Case No. 00-99001  
D.C. No. CV 89-0327 SAW

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

**STANLEY WILLIAMS, JR.**

Petitioner-Appellant

v.

**ARTHUR CALDERON  
[JEANNE WOODFORD],**

Respondent-Appellee

---

**ON APPEAL FROM THE JUDGMENT OF THE  
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

---

**RESPONSE TO APPELLATE COMMISSIONER SHAW'S  
ORDER OF JANUARY 29, 2001**

---

Maria E. Stratton, Ca. Bar No. 90986  
Federal Public Defender  
C. Renée Manes, Ca. Bar No. 158528  
Deputy Federal Public Defender  
321 East Second Street  
Los Angeles, CA 90012  
(213) 894-2854

RECEIVED  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FEB 27 2001

FILED \_\_\_\_\_  
DOCKETED 3/1/01 DATE \_\_\_\_\_ INITIAL gar

**TO THE COURT:**

The Federal Public Defender, current counsel for Appellant Stanley Williams, have met with Mr. Williams to discuss his representation before this court pursuant to the Order of January 29, 2001. As discussed in the following declaration, current counsel request that new counsel be substituted into this matter, and suggest the appointment of Ms. Gail Weinheimer and Ms. Marcia Morrissey, both of whom are qualified and willing to accept the appointment to represent Mr. Williams.

Briefly, Mr. Williams believes, and current counsel agree, that there has been a irreparable breakdown in the relationship between current counsel and Mr. Williams, and that Mr. Williams and current counsel are unable to communicate regarding this matter. Mr. Williams requests that alternate counsel be appointed, and specifically requests the appointment of:

Ms. Gail Weinheimer  
862 Sir Francis Drake Blvd., No. 245  
San Anselmo, CA 94960  
Telephone: (415) 488-4876  
Facsimile: (415) 488-4151

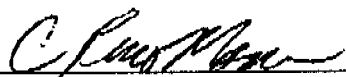
and:

Ms. Marcia A. Morrissey  
2115 Main Street  
Santa Monica, CA 90405  
Telephone: (310) 399-3259  
Facsimile: (310) 399-1173

Current counsel have conferred with Ms. Weinheimer and Ms. Morrissey, and they are willing to undertake the representation of Mr. Williams. Ms. Weinheimer and Ms. Morrissey are both experienced in capital litigation.

Dated: February 27, 2001

Maria E. Stratton  
Federal Public Defender

By:   
C. Renée Manes  
Deputy Federal Public Defender

Attorneys for Petitioner-Appellant  
STANLEY WILLIAMS, JR.

DECLARATION OF MARIA E. STRATTON

I, Maria E. Stratton, declare and state as follows:

1. I am the Federal Public Defender for the Central District of California.

I am a member of the bar of this court. My office is counsel of record for appellant Stanley Williams who is currently appealing the denial of his petition for writ of habeas corpus. By his petition Mr. Williams challenged his conviction and judgment of death in the Superior Court of Los Angeles County.

2. On November 12, 2000, appellant Stanley Williams wrote to the court requesting appointment of substitute counsel. On January 29, 2001, the court ordered counsel for appellant, the office of the Federal Public Defender to respond. This declaration is counsel's response to the court. Since Mr. Williams wrote the court, I have visited Mr. Williams twice and Ms. Manes has visited twice to try to resolve our differences.

3. The office of the Federal Public Defender was appointed as appellant's counsel on January 22, 1996, to prosecute appellant's petition for writ of habeas corpus. We were appointed after appellant's exhaustion petition had been denied by the California Supreme Court.

4. On February 26, I met with appellant at the California State Prison at San Quentin. Also with Mr. Williams was Deputy Federal Public Defender C. Renée

Manes. Mr. Williams reiterated his desire for new counsel, citing an irreparable breakdown of the attorney-client relationship with Ms. Manes and me. At the conclusion of our visit, Ms. Manes and I concluded that our relationship with Mr. Williams had deteriorated to the point that we felt it could not be repaired and that appointment of new counsel would further the interests of justice. Although my office typically takes no position on whether substitute counsel should be appointed, I do feel it necessary to advise the court that in our professional judgment, our attorney-client relationship with Mr. Williams is such that appointment of new counsel would best further the litigation, serving the interests of both the court and appellant.

5. As the person delegated by the court to assign counsel on appeal for indigent individuals appointed counsel under the Criminal Justice Act, I have investigated the availability of substitute counsel experienced in capital habeas matters and qualified as "learned counsel" under 21 U.S.C. § 848q. Gail Weinheimer and Marcia Morrissey are both experienced capital habeas attorneys. Both are available to accept appointment on appeal in this matter. (Under 21 U.S.C. § 848q, appointment of two attorneys in a capital habeas action is recommended.) Both request a period of six months to get familiar with the issues on appeal.

6. On February 26, 2001, Mr. Williams told me that he would gratefully embrace the appointment of Ms. Weinheimer and Ms. Morrissey.

7. Gail Weinheimer's address information is:

862 Sir Francis Drake Blvd., No. 245  
San Anselmo, CA 94960  
Telephone: (415) 488-4876  
Facsimile: (415) 488-4151

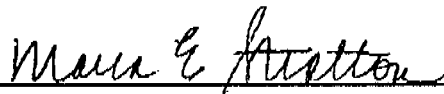
8. Marcia Morrissey's address information is:

2115 Main Street  
Santa Monica, CA 90405  
Telephone: (310) 399-3259  
Facsimile: (310) 399-1173

9. This request is not made for the purposes of delay nor to harass the court or opposing counsel. Mr. Williams is in custody on death row at San Quentin State Prison.

10. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 26th day of February, 2001 at Los Angeles, California

  
\_\_\_\_\_  
Maria E. Stratton  
Federal Public Defender

**FEDERAL PUBLIC DEFENDER**  
321 East 2nd Street  
Los Angeles, California 90012-4202

Telephone (213) 894-2854  
Facsimile (213) 894-0081



RECEIVED

FEB 27 2001  
PETER L. SHAW  
OFFICE OF THE  
APPELLATE COMMISSIONER

**FACSIMILE TRANSMISSION COVER SHEET**

**Date Sent:** February 27, 2001

**TO:**

**NAME:** Appellate Commissioner, Peter L. Shaw

**FAX #:** (415) 556-6228

**VOICE #:**

**Number of Pages to Follow:** 6

**FROM:** C. Renée Manes

**COMMENTS:**

**IN EVENT OF TRANSMISSION ERROR OR FOR VOICE COMMUNICATION**

**FAX (213) 894-0081 or CALL (213) 894-7526**

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

ORIGINAL

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

STANLEY T. WILLIAMS,

Petitioner-Appellant,

v.

JEANNE WOODFORD, Warden of  
California State Prison at San Quentin,

Respondent-Appellee.

CAPITAL CASE

RECEIVED  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

MAR 13 2001

FILED 3/13/01  
DOCKETED 3/14/01  
DATE INITIAL

On Appeal from the Judgment of the  
United States District Court  
for the Central District of California  
No. CV-89-0327-SVW  
The Honorable Stephen V. Wilson, Judge

**RESPONDENT'S RESPONSE TO APPELLANT'S COUNSEL'S  
FEBRUARY 27, 2001 FILING RE SUBSTITUTION OF COUNSEL**

BILL LOCKYER, Attorney General  
of the State of California

DAVID P. DRULINER  
Chief Assistant Attorney General

CAROL W. POLLACK  
Senior Assistant Attorney General

KEITH H. BORJON  
Supervising Deputy Attorney General

SUSAN LEE FRIERSON  
Deputy Attorney General

LISA J. BRAULT  
Deputy Attorney General  
State Bar No. 155200

300 South Spring Street  
Los Angeles, CA 90013  
Telephone: (213) 897-2284  
Facsimile: (213) 897-6496

Attorneys for Respondent-Appellee

99-99018

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**STANLEY T. WILLIAMS,**

Petitioner-Appellant,

v.

**JEANNE WOODFORD, Warden of  
California State Prison at San Quentin,**

Respondent-Appellees.

**CAPITAL CASE**

Respondent-Appellee ("Respondent"), by and through counsel of record, hereby responds, and objects, to Petitioner-Appellant's ("Petitioner") February 27, 2001 filing, in which counsel requests that alternate counsel be appointed. For the reasons set forth below, such a request should be denied.

The appeal from the judgment denying the petition for writ of habeas corpus is currently before this Court, as is the appeal from the district court's denial of petitioner's Rule 60(b) Motion for Relief from Judgment in related Case No. 00-99001. Both matters have been fully briefed and the parties await scheduling of oral argument by this Court.

In the final leg of these proceedings, petitioner requests new counsel. His current counsel, the Federal Public Defender, cryptically cites some "irreparable breakdown in the relationship between counsel and Mr. Williams," and asks that alternate counsel be appointed. Petitioner's February 27, 2001 Response ("Response") at 1-2. Despite counsel's assertion that this request is not being made

for purpose of delay (Response at 5), such a motive is patent. Counsel makes no effort whatsoever to substantiate her claim of "irreparable breakdown" and appears to be blindly acceding to petitioner's demand to have private counsel appointed at public expense.

As an indigent, petitioner does not have the right to counsel of his choice. This Court recently reiterated, "The qualified right of choice of counsel applies only to persons who can afford to retain counsel." Schell v. Witek, 218 F.3d 1017, 1025 (9th Cir. 2000) (en banc); see also Caplin & Drysdale, Chartered v. United States, 491 U.S. 617, 624, 109 S.Ct. 2646, 105 L.Ed.2d 528 (1989) ("Petitioner does not, nor could it defensibly do so, assert that impecunious defendants have a Sixth Amendment right to choose their counsel. The Amendment guarantees defendants in criminal cases the right to adequate representation, but those who do not have the means to hire their own lawyers have no cognizable complaint so long as they are adequately represented by attorneys appointed by the courts.") As there is no suggestion either that petitioner could, or wanted to, privately retain attorneys Weinheimer and Morrissey, or that the Federal Public Defender is incompetent, his and his current counsel's request that substitute counsel be appointed should be denied.

Furthermore, even *at trial*, mere dissatisfaction with counsel, lack of trust, strategic differences, and the mere assertion of a "conflict of interest" are not adequate grounds for the substitution of counsel. See Jackson v. Ylst, 921 F.2d 882, 888 (9th Cir. 1990); United States v. Padilla, 819 F.2d 952, 955-56 (10th Cir. 1987); United States v. Gonzalez, 800 F.3d 895, 899 (9th Cir. 1986); United States v. Allen, 789 F.2d 895, 899 (9th Cir. 1986); McKee v. Harris, 649 F.2d 927, 932 (2d Cir.

1981). See also Schell, 218 F.3d at 1024-1025. A fortiori, on habeas, the same, or higher, standard must be applied before new counsel is substituted.

To that end, petitioner, or his counsel, must give legitimate case-specific reasons for substitution. McKee v. Harris, 649 F.2d 927, 932 (2nd Cir. 1981); U.S. v. Allen, 789 F.2d 90, 93 (1st Cir. 1986); U.S. v. Soto-Hernandez, 849 F.2d 1325, 1328 (10th Cir. 1988). It is not enough for petitioner or his counsel to baldly assert there is “an irreparable breakdown of the attorney-client relationship.” Response at 4. Nor is it sufficient for counsel to use such “buzz words” in an attempt to meet the case law requiring substitution of counsel. U.S. v. McDaniel, 995 F.Supp. 1095, 1097, n. 6 (C.D. Cal. 1988).

Counsel’s response and accompanying declaration are devoid of *any* reasons warranting substitution of counsel. Indeed, the only substantive reason for the request appears in the second paragraph of petitioner’s letter to Maria Stratton, dated November 6, 2000 (“letter 11/6/00”),

<sup>1</sup> wherein petitioner complained about the 125 typos in the Reply brief, and his apparent argument with attorney Manes over whether they were in fact “typos” or “a glitch in her machine.” Regardless of how the problem was characterized, it was corrected by petitioner’s counsel when she filed an errata brief with this Court. Consequently, any concerns petitioner had that this Court would “use the [125] typos against me” (see letter 11/6/00, ¶ 3) should have been alleviated.

What does *not* appear in petitioner’s letter, nor in his current counsel’s declaration, is any assertion that would support a finding that petitioner’s appeal

---

1. Petitioner’s letter is attached to this Court’s order dated January 29, 2001, requesting a response from counsel.

cannot be fairly adjudicated with the Federal Public Defender's Office continued participation. While counsel asserts "Mr. Williams and current counsel are unable to communicate regarding this matter" (Response at 1), the record indicates otherwise. According to counsel's declaration, she and C. Renee Manes each met with petitioner twice in an attempt to resolve their differences. Response at 3. Ms. Stratton recommended substitute counsel to represent petitioner and he has "gratefully embrace[d]" that recommendation. Clearly, the lines of communication are sufficiently open for petitioner to seek, trust, and adopt the advice of current counsel. Counsel's declaration rebuts the vague foundation laid for petitioner's claim of an "irreparable breakdown of the attorney-client relationship."

It bears repeating, the briefing in this case, as well as the related Rule 60(b) appeal, is *complete*. It is only a matter of time before oral argument is scheduled in this Court. And, of course, petitioner will neither participate in, nor attend, the oral argument. Thus, it is puzzling how counsel can assert that substitution of counsel at this point in the proceedings would "further the litigation, serving the interests of both the court and [petitioner]." Response at 4. To the contrary, substitution of counsel at this time will only further delay this matter, which is fast approaching the 20th anniversary of petitioner's commitment of judgment of death.

Finally, current counsel's empty assertion of an "irreparable breakdown" is insufficient to disengage the entire Federal Public Defender's Office. Indeed, the Federal Public Defender, and C. Rene Manes in particular, has represented petitioner since January 3, 1996. During that time, petitioner has been well represented. Petitioner's current attorney knows the intricacies of this complex case and is in the

best position to argue the issues on appeal to this Court. Her continued representation, possibly with the assistance of another attorney from her office to communicate with petitioner not only avoids delay, but serves petitioner's best interest. Certainly, there must be one attorney in the Federal Public Defender's Office who can maintain a workable relationship with petitioner, at least through oral argument.

Significantly, petitioner already has had **eight** attorneys while he has been in federal court. Petitioner started out with attorney Bert Diexler when he filed his first federal habeas corpus petition in the district court in 1989. Then, in November of 1995, at petitioner's request, attorney Jerry Newton was appointed as substitute counsel. Less than two months later, due again to petitioner's dissatisfaction with his attorney, he requested, and was granted, substitute counsel; the Federal Public Defender was appointed to represent him. By petitioner's own account, he has had six attorneys from the Federal Public Defender's Office representing him: Maria E. Stratton, C. Renee Manes, Kate Rubin, Julie Trachetti, Janice Bergman, and Michael O'Connor. Petitioner's history suggests a pattern of displeasure with any attorney who represents him. There is nothing to suggest that petitioner will be any more satisfied with outside counsel.

Petitioner's request to substitute attorneys at this point in the proceedings can only be seen as a delay tactic. As evidenced by his letter to this Court, petitioner is highly intelligent. Clearly he is capable of articulating legitimate reasons, if they existed, for substitution of his counsel. His last ditch effort to put everything on hold at this point in the proceedings can only be seen as yet another attempt to drag this case well into the 21st Century. Without sufficient and legitimate

reasons being articulated, petitioner's request should be denied.

Accordingly, for the reasons stated, respondent respectfully asks this court to deny petitioner's request for substitution of counsel.

Dated: March 7, 2001.

Respectfully submitted,

BILL LOCKYER, Attorney General  
of the State of California  
DAVID P. DRULINER  
Chief Assistant Attorney General  
CAROL W. POLLACK  
Senior Assistant Attorney General  
KEITH H. BORJON  
Supervising Deputy Attorney General  
SUSAN LEE FRIERSON  
Deputy Attorney General



LISA J. BRAULT  
Deputy Attorney General

Attorneys for Respondent

LJB:mar  
LA1999XF0003

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **STANLEY T. WILLIAMS v. JEANNE WOODFORD, WARDEN**  
Case No.: **99-99018**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **March 8, 2001**, I served the attached

**RESPONDENT'S RESPONSE TO APPELLANT'S COUNSEL'S FEBRUARY 27, 2001 FILING RE SUBSTITUTION OF COUNSEL**

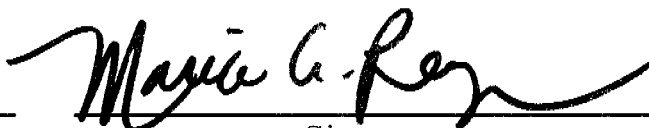
by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Los Angeles, California 90013, addressed as follows:

**Maria E. Stratton  
Federal Public Defender  
C. Renee Manes  
Deputy Federal Public Defender  
321 East Second Street  
Los Angeles, CA 90012**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **March 8, 2001**, at Los Angeles, California.

MARIA A. REYES

Declarant



Signature

LJB:mar  
LA1999XF0003

No. 99-99018  
Related Case No. 00-99001  
D.C. No. CV 89-0327 SAW

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

STANLEY WILLIAMS, JR.

**ORIGINAL**

Petitioner-Appellant

RECEIVED  
CATHY A. CATTERSON, CLERK  
U. S. COURT OF APPEALS

v.

ARTHUR CALDERON  
[JEANNE WOODFORD],

MAR 14 2001  
FILED 3/14/01  
DOCKETED 3/19/01  
DATE INITIAL

Respondent-Appellee

---

ON APPEAL FROM THE JUDGMENT OF THE  
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

---

**SUPPLEMENT TO RESPONSE TO APPELLATE COMMISSIONER  
SHAW'S ORDER OF JANUARY 29, 2001**

---

Maria E. Stratton, Ca. Bar No. 90986  
Federal Public Defender  
C. Renée Manes, Ca. Bar No. 158528  
Deputy Federal Public Defender  
321 East Second Street  
Los Angeles, CA 90012  
(213) 894-2854

**TO THE COURT:**

The Federal Public Defender, current counsel for Appellant Stanley Williams, presents the following brief response to correct factual misstatements in "Respondent's Response to Appellant's Counsel's February 27, 2001 Filing Re [sic] Substitution of Counsel." Specifically, on page 5 of that filing Respondent provides a factually inaccurate history of Mr. Williams' representation in federal court.

Mr. Bert Deixler was appointed by the California Supreme Court to represent Mr. Williams in state appellate proceedings. On August 4, 1995, Mr Deixler appeared before the district court and requested to be relieved as counsel for Mr. Williams, stating he did not wish to continue with the representation in federal court. Mr. Williams requested appointment of new counsel, naming Robert Bryan and Karen Woods, but that request was denied and alternate counsel were appointed.

In terms of internal staffing in the Federal Public Defender's Office, Ms. Stratton has not directly represented Mr. Williams. Other than the undersigned, the prior Deputy Federal Public Defenders who were previously assigned to represent Mr. Williams have left employment with the office. Mr. Williams did not request that those deputies be taken off of his case, nor did he express displeasure with their

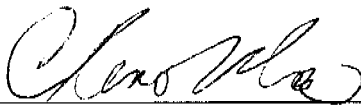
///

///

representation, nor did he have any responsibility for their decision(s) to leave the office.

Dated: February 27, 2001

Maria E. Stratton  
Federal Public Defender

By:   
C. Renée Manes  
Deputy Federal Public Defender

Attorneys for Petitioner-Appellant  
STANLEY WILLIAMS, JR.

## DECLARATION OF SERVICE

Case Name: Williams v. Calderon[Woodford]

Case No. 99-99018

Related Case No. 00-99001

D.C. No. CV 89-0327 SAW

I, **Concepcion Zambrano**, declare that I am a resident or employed in Los Angeles County, California; my business address is the Office of the Federal Public Defender, 321 East Second Street, Los Angeles, California 90012; I am over the age of eighteen years; I am not a party to the action entitled bebw; I am employed by the Federal Public Defender for the Central District of California, who is a member of the Bar of the Ninth Circuit Court of Appeals United States District Court for the Central District of California, and at whose direction I served a copy of the attached

### **SUPPLEMENT TO RESPONSE TO APPELLATE COMMISSIONER SHAW'S**

**ORDER OF JANUARY 29, 2001** on the following individual(s) by:

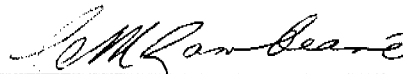
<input type="checkbox"/> Placing same in a sealed envelope for collection and interoffice delivery addressed as follows:	<input type="checkbox"/> Placing same in an envelope for hand-delivery addressed as follows:	<input checked="" type="checkbox"/> Placing same in a sealed envelope for collection and mailing via the United States Post Office, addressed as follows:	<input type="checkbox"/> Faxing same via facsimile machine addressed as follows:
--	--	---	--

### **LISA BRAULT**

Deputies Attorney General  
State of California, Department of Justice  
300 South Spring Street, Suite 500  
Los Angeles, California 90013

This proof of service is executed at Los Angeles, California, on **March 12,**  
**2001.**

I declare under penalty of perjury that the foregoing is true and correct to the  
best of my knowledge.



---

**CONCEPCION ZAMBRANO**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

APR - 3 2001

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

STANLEY WILLIAMS,

Petitioner - Appellant,

v.

JEANNE WOODFORD, Warden,

Respondent - Appellee,

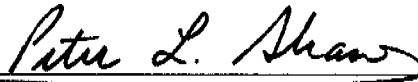
No. 99-99018

D.C. No. CV-89-00327-SVW  
C. D. Cal.

ORDER

Before: Peter L. Shaw, Appellate Commissioner

Appellant requested substitution of counsel after the briefing was completed based on appellant's complaint that counsel's briefing contains numerous typographical errors. The court will carefully consider the merits of appellants' appeal regardless of typographical errors. Accordingly, appellant's request for substitution of counsel is denied.



General Orders 6.3(e)

O:\AppComm\Orders\me\99-99018c

Stanley Williams C#29300  
San Quentin State Prison 4-EB-62  
San Quentin, CA, 94974

09-44111  
44-4444  
98-56732

10/23/02

*pi*

Ms. Maria Stratton, 10-1-02-Tuesday

Indeed I find it paramount to extend this brief missive to remind you that the current devastating ruling from the Ninth Circuit clearly states culpability, at least in part, on work for which the Federal Public Defender's Office was responsible. Consequently it caused me to lose many critical issues(see the entire Ninth Circuit Court opinion by Judge Hug) that GOD FORBID may result in my execution.

a) Foremost I'm aware of the meeting held at the F.P.D.O(Federal Public Defender's Office) on thursday(10-10-02) with attorney Ms. Gail Weinheimer. During the meeting you agreed to notify the Ninth Circuit Court to remove the F.P.D.O based on the fact that the trust between me(the client) and the F.P.D.O has been irreconcilable.

b) Therefore I find it necessary Ms. Stratton to once again take you up on that offer.

c) I entreat of you Ms. Stratton to forward me a copy of the document that you plan to submit to the Ninth Circuit in re the F.P.D.O removal from this appeal case. Quite naturally you can understand the need to send the document to the Ninth Circuit Court" as quickly as possible to afford me an [innocent] man the best possible chance of securing professional legal representation and therefore receiving justice.

d) Admittedly I do appreciate the willingness to remove yourself from this appeal. Nevertheless I am highly disappointed that you & your